

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

DISH NETWORK L.L.C.
and NAGRASTAR LLC,

Plaintiffs,

v.

TOMASZ KACZMAREK,
JOHN DEFOE, JULIA DEFOE,
and DOES 1-10,

Defendants.

Case No. 19-4803 NGG-SJB

DECLARATION OF KEVIN MCMONNIES

I, KEVIN MCMONNIES, of Englewood, Colorado declare as follows:

1. I make this declaration based on personal knowledge and, if called upon to testify, would testify competently as stated herein.

2. I am the Director of Field Security and Investigations for Plaintiff NagraStar LLC (“NagraStar”). I have been employed with NagraStar since 2006. NagraStar provides encryption technology used by Plaintiff DISH Network L.L.C. (“DISH”) to protect its satellite transmissions of television programming from piracy, i.e., unauthorized reception, retransmission, or viewing. I am responsible for NagraStar’s anti-piracy investigations and support of legal actions worldwide, including this case. The investigation described in this declaration was performed by myself and employees of NagraStar working under my direction and supervision.

3. NagraStar conducted periodic tests of the IPGuys streaming service to determine if television programming that originated from DISH’s satellite communications was retransmitted without authorization to users of the IPGuys service. The testing was conducted by incorporating encoded messages into DISH’s satellite communications and then viewing channels on the IPGuys service to observe those encoded messages, which confirmed the programming did in fact originate

from DISH's satellite communications. NagraStar monitored only a subset of the channels offered on the IPGuys service between March 8, 2018 and July 18, 2019, and observed approximately 75 channels on the IPGuys service that originated from DISH's satellite communications, including:

- a. Movie channels such as Cinemax, HBO, Showtime, and Starz;
- b. Sports channels such as ESPN, ESPN2, Fox Sports 1, MLB Network, NFL Network, beIN Sports, and Willow Cricket;
- c. Additional channels originating from DISH's satellite transmissions such as the A&E, AMC, BET, Bravo, CNN, Comedy Central, Discovery, Disney XD, Food Network, Fox News, Hallmark, HGTV, History, Lifetime, MSNBC, TBS, TLC, TNT, and USA channels.

A true and correct copy of a relevant excerpt of NagraStar's monitoring report dated July 18, 2019 concerning the Willow Cricket channel is attached as Exhibit 1, which is representative of the channel monitoring analysis conducted by NagraStar.

4. NagraStar identified seven DISH subscription accounts that were used to supply or "seed" the IPGuys service with channels originating from DISH's satellite communications (the "Seeder Accounts"). Five of those Seeder Accounts were identified based upon visual observation of DISH's "Partial Signal Loss" error message appearing on the television screen when monitoring Cinemax, Starz, BET, NFL Network, and Golf channels on the IPGuys service. The error message displayed on each channel identified the serial number of the DISH satellite receiver and NagraStar smart card assigned to the DISH subscription account used to provide that channel for the IPGuys service. Screenshots of these DISH error messages are attached as Exhibit 2. NagraStar used the serial numbers set forth in the error messages to identify the following five Seeder Accounts:

- a. DISH account [REDACTED] 4156 held in the name of Mirsad Kutu at 2165 East 16th Street, Brooklyn, New York 11229;

- b. DISH account [REDACTED] 8550 held in the name of Xatela Xistaviani at 4627 Beach 46th Street, Brooklyn, New York 11224;
- c. DISH account [REDACTED] 1107 held in name of Hasan Kadirov at 1855 West 5th Street, Brooklyn, New York 11223;
- d. DISH account [REDACTED] 0199 held in the name of Frenk David at 2236 82nd Street, Brooklyn, New York 11214; and
- e. DISH account [REDACTED] 5855 held in the name of John Steev at 2354 85th Street, Brooklyn, New York 11214.

5. NagraStar identified the sixth Seeder Account by temporarily deactivating and then reactivating a DISH satellite receiver that was associated with DISH subscription account number [REDACTED] 3795, which is held in the name of Tayyab Ali at 1971 67th Street, Brooklyn, New York 11204. Within minutes of NagraStar deactivating the DISH satellite receiver, the Jus Punjabi channel on the IPGuys service became unavailable and displayed DISH's notification stating that a subscription was required. When NagraStar reactivated the DISH satellite receiver minutes later, the Jus Punjabi channel resumed transmitting on the IPGuys service. Screenshots corresponding with this analysis are attached as Exhibit 3. The foregoing establishes that the DISH subscription account ending 3795 was used to supply the IPGuys service with content originating from DISH's satellite communications.

6. NagraStar similarly identified a seventh Seeder Account by deactivating four DISH satellite receivers associated with DISH subscription account number [REDACTED] 2150, which is held in the name Jamshut Abdalov at 1818 74th Street, Brooklyn, New York 11204. NagraStar, at that same time, deactivated eight DISH satellite receivers associated with the DISH subscription accounts listed above ending 4156 and 5855, comprised of four receivers on each account. Shortly after deactivating these DISH satellite receivers, NagraStar observed nine channels on the IPGuys

service, consisting of NFL Network, Tennis, Outdoors, Food Network, UFC/Boxing, and multiple Cinemax channels, that were unavailable and displayed DISH's notification stating a subscription was required or contained DISH's promotional video or DISH's channel information. Screenshots corresponding with this analysis are attached as Exhibit 4. The foregoing establishes that each of the three DISH subscription accounts identified in this paragraph were used to supply the IPGuys service with content originating from DISH's satellite communications.

7. NagraStar obtained CLEAR investigative reports and reviewed other public records concerning the names, mailing addresses, telephone numbers, and email addresses that, according to DISH's subscription account records, are associated with the seven Seeder Accounts identified in paragraphs 4-6. NagraStar was unable to connect the account holders to the contact information listed in the DISH records. NagraStar also attempted to contact each of the alleged account holders at the telephone numbers provided to DISH, but these telephone numbers were either not in service or are believed to be invalid telephone numbers for the named account holders because NagraStar was informed it had the wrong number or left voicemail messages that were not returned. It is my belief that the seven Seeder Accounts were created using incorrect names and contact information.

8. The seven Seeder Accounts identified above were all established through a former retailer named Ratiann Enterprise Inc. located in Brooklyn, New York. All seven Seeder Accounts share one or more credit cards as the source of payment. And, all seven Seeder Accounts have the same or similar passcodes and hints in the event the passcode is not recalled. The foregoing further supports my belief that the Seeder Accounts identified by NagraStar were each established with a name and contact information that does not correspond with the person responsible for the account.

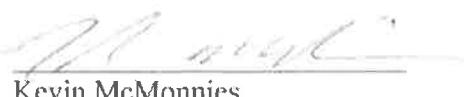
9. The seven Seeder Accounts, according to DISH's subscription account records, had a combined total of approximately 200 credit cards that were a source of payment on the accounts. The following 40 credit cards were associated with more than one Seeder Account:

	7668		1086		7230
	5982		6014		9182
	0018		5707		2502
	3567		6455		2590
	8279		8915		3309
	2174		0346		3685
	1522		9596		9687
	1663		5103		2720
	3082		3306		3546
	3637		4015		4023
	4536		4585		5643
	9049		8381		5633
	5494		9398		278
	0562				

The foregoing appear to be Visa credit cards based upon the first number "4." NagraStar's experience in prior cases is that card networks such as Visa are unable to identify a particular credit card account holder based on the account number. Instead, card networks like Visa are only able to identify the bank, financial institution, or credit union that issued the credit card, and discovery must be conducted on the card issuer to identify the actual account holder.

10. NagraStar contacted Vaka Korkelia, who identifies himself as the owner of Ratiann Enterprise Inc., to request information on the persons responsible for the seven Seeder Accounts. Mr. Korkelia informed NagraStar on July 16, 2019 that he was reviewing the accounts. NagraStar received a similar response from Mr. Korkelia when he was contacted on July 24, 2019. To date, Mr. Korkelia has not provided NagraStar with information concerning the Seeder Accounts created through Ratiann Enterprise Inc.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 17, 2019.



Kevin McMonnies